



Creeping Ethical Regulation and the Strangling of Research

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Introduction

1.1 In 2000, a major change in the institutional environment of UK social science occurred when the Economic and Social Research Council (ESRC) produced its Research Ethics Framework (REF), requiring that all institutions whose members seek funding must operate ethical regulation procedures of a prescribed kind. The defective assumptions and dangerous implications of this new regime have been outlined elsewhere (Dingwall 2006a and b and 2007; Hammersley 2006 and 2009). The revised version, the Framework for Research Ethics (*FRE*), retains the REF's six principles, all of which have the character of injunctions that must be 'implemented', but it extends the scope of regulation in some significant ways. Stanley and Wise (2010) have provided a very important service in analysing the *FRE*; and their metaphor of creeping extension certainly captures what is happening.

1.2 The *FRE* claims to offer 'clarification' of some elements of the REF (ESRC 2010:2 and 45), while also being a response to 'changing scientific agendas and policy developments' (p2). We are told that we live in 'a fast moving research environment' (p2). This is, of course, the language of frenetic modernisation that now predominates in much policy discourse, including in other ESRC documents. In this discourse, imperatives loudly declare the need to adapt to a changing world for fear of falling by the wayside; though what is actually required is compliance with the demands of powerful agencies of one sort or another (Hammersley 2008:249). Not surprisingly, perhaps, this language is shot through with ambiguities and ambivalences. For example, the discussion of gaining informed consent in the *FRE* suggests that 'typically' this should be done in written form, with agreement being 'signed off' by participants (ESRC 2010:28), yet only a little later we are told that 'highly formalized or bureaucratic ways of securing consent should be avoided in favour of fostering relationships in which ongoing ethics regard for participants is to be sustained [...]' (p29). In another place, it is insisted that 'innovative' research is to be facilitated (p2), but then researchers are instructed that 'risks should be minimized' (p3). Later it is recognized that 'not all risks can, or in some cases, should be avoided' (p26), indeed that:

research may be 'deliberately and legitimately opposed to the interests of the research participants/organizations' in cases where the objectives of the research are to reveal and critique fundamental economic, political or cultural disadvantage or exploitation' (ESRC 2010:27).^[1]

However, on the next page we are informed that:

political sensitivities may arise when findings are contrary to local or national policy. It may be important to publish critical findings about policies and organisations, but was this within the original remit of the research? Were the participants aware that this could be a consequence of their participation?

The implication seems to be that the findings of research projects must be anticipated so that those in charge of local and national policy can be forewarned. Moreover, it seems unlikely that powerful groups, on being told that the proposed research is 'deliberately opposed to their interests', would consent to access.

1.3 In many ways, the institution of the REF and its updating in the *FRE* parallels what occurred in the United States, and in other countries too, with, from 1981 onwards, the Federal requirement to set up Institutional Review Boards. There are two sorts of 'creep' involved, as outlined by Haggerty (2004) in his discussion of the situation in Canada: intensification and extension. Stanley and Wise draw particular attention to the first: the way in which the *FRE* increases the *degree* of ethical regulation in the domain marked out by the REF. A previous apparent loop-hole, whereby researchers could avoid submitting their proposals to an ethics committee on the grounds that no significant ethical issues are involved, has been closed. The only exemptions now are research that relies entirely on data which is already in the public domain (ESRC 2010:11), and projects that are 'not considered "research"', these being listed as 'routine audit, performance reviews, quality assurance studies, testing within normal education requirements, and literary or artistic criticism' – a motley and puzzling set of exceptions. At the same time, it is made clear that 'student research should be treated in the same manner as all other research and subject to ethics review' (p46), this including research projects undertaken by undergraduates and those on taught postgraduate courses (p19). In short, few research projects will now be able to escape 'ethical scrutiny' by

committee.

1.4 Another aspect of the intensification of regulation is that 'ethical review' is no longer a matter of gaining approval to go ahead with a project – it is now expected to continue throughout the course of the research. The *FRE* states that 'the principal aim of ethics review is, as far as possible, to protect all groups involved in research: participants, institutions, funders and researchers *throughout the lifetime of the research and into the dissemination process*' (ESRC 2010:2 emphasis added). Indeed, in the case of projects involving an 'emergent design' – which includes most qualitative work and, it might be argued, most good research – an advisory committee must be set up to deal with ethical issues as they arise. Point 1.11.2 of the *FRE* states that: 'Where a study design is emergent, the REC [Research Ethics Committee] should agree procedures for *continuing* ethics review (for example through a Project Advisory Group) [...] *as a condition of approval*' (ESRC 2010:17 emphasis added).

1.5 The other sort of ethics creep sponsored by *FRE* concerns what is included under the heading of 'ethics'. Once again this spreads out from the REF, and from what has happened in its wake in many institutions. Of particular significance is that the *FRE* now includes reference to 'research integrity', indeed the UKRIO (UK Research Integrity Office) 'research integrity checklist' is incorporated into Appendix A of the *FRE*. Meanwhile, in the body of the text it is stated that:

there is a clear link between governance and ethics. The RCUK [Research Councils United Kingdom] Research Conduct and Research Integrity Policy has now been released which brings together questions of research integrity and research ethics, and therefore overlaps with aspects of the current ESRC REF. The revised framework compliments [sic] this policy to promote good practice and governance of research. (ESRC 2010:44)

In this way, the scope of regulation is now explicitly extended to include virtually all aspects of the research process. Specifically, the topic to be investigated must be judged sufficiently worthwhile to warrant the risks likely to be involved, and the research design must be validated as effective. The question that arises here, as elsewhere, is how any ethics committee could have the expertise to make sound judgments about these matters, even were it to be accepted that they have the authority to do so. As in other spheres, what is involved is deprofessionalisation in the name of a new professionalism: one that requires compliance with 'good practice' laid down in frameworks specified by government bodies and organisational managements.

1.6 This is part of a wider process: the extension into new areas of the sort of 'research governance' developed in the field of health, signalled by publication of the Research Governance Framework for Health and Social Care in 2001 (Department of Health 2005), and the establishment of the National Research Ethics Service in 2007, which consolidated the organisation of ethics committees within the National Health Service. The extension of research governance to universities is also part of the increasing 'strategic management' of research prompted by pressure to compete more effectively for funds through the Research Assessment Exercise and its successor, and for external funds from other sources. This has involved organisational legislation of research priorities, and the introduction of increasingly bureaucratic devices to monitor and direct academic research, and to maximize its 'impact', at least in the sense of financial return.

1.7 This, of course, reflects the slow shift from universities being relatively independent of both government and commerce, and organized on a collegial basis, towards their being treated as part of the 'national economy', and increasingly run in a managerial fashion that apes the private-for-profit sector. It forms part of the 'new public management' attack on professionalism in the name of 'transparent' accountability, guided by the idea that the public sector must be made accountable to tax payers in a similar way to that in which commercial firms are to their shareholders. This has resulted in greatly strengthened managerial structures within many UK universities, and it is not surprising that the *FRE* requires that 'the authority of [an ethics committee] be delegated through the institution's usual governance procedures' (ESRC 2010:10); though in a further outbreak of ambiguity it is insisted that, at the same time, they must be 'free from bias and undue influence from the institution in which they are located' (p11).

1.8 The change in the character of universities that lies behind all this can be traced a long way back in the UK: to the transformation of the old University Grants Committee into HEFCE and its associates, this representing a switch in the nature of this organization from an independent buffer into an arm of government. There has also been a transformation of the ESRC itself, from an organization that was relatively independent of government to one that is explicitly geared to pursuing national goals. This too can probably be tracked back to an institutional name change: from Social Science Research Council (SSRC) to ESRC. Behind the scenes, relations with government have played a powerful role in shaping ESRC policies and procedures in recent years, despite resistance and insistence that the organisation's perceived independence must be preserved.

1.9 All this leads to a pessimistic conclusion about Stanley and Wise's call for opposition to the *FRE*, and to earlier pleas in the wake of the REF, including my own. The chances of successfully resisting the creep of ethical regulation are low given that it is part of a much wider shift in the whole character of universities, and of the research that is carried on within them (Hammersley 2010). Moreover, the extension of ethical regulation is lubricated by an ideology that is hard to challenge. This assumes, rightly, that there are genuine ethical concerns associated with social research, but exaggerates them, and also assumes, wrongly, that these can be eliminated or minimised through establishing accountability regimes. It is striking that the *FRE* formulates ethics in terms of 'protecting' all involved from the 'risks' associated with research through demanding 'compliance' with 'good practice'. As already noted, there is an exact parallel here with similar ventures in other parts of the public sector where 'transparent accountability' regimes have been set up in order to deal with problems or to 'ensure' improvement. The fact that, generally speaking, these policies have failed to achieve their goals – and have, generally, undermined good practice and commitment to it – does not terminate belief in the driving ideology. People *want* to believe that accountability procedures work, because they find the alternative – trusting professional judgment – unacceptable. Such distrust derives from a deep-seated problem in large, complex societies, where there is unavoidable reliance upon anonymous strangers for even the most basic goods and services; one that has been exacerbated by globalization, and by huge growth in the advertising and public relations

industries. Researchers have themselves been drawn into the resulting, now endemic, sophistry in order to pursue external funds effectively, and in efforts to maximize the impact of their findings, build reputations, and establish their own authority in the public sphere.

1.10 An associated problem in countering the ideology is that what is at issue is a matter of degree and appropriateness. Few of us would deny that close regulation of research trialling new drugs is required. The point is that social research, generally speaking, involves nothing like the same degree of intervention by researchers or the same danger of serious harm. However, it is always possible to heighten judgments of the likely severity of ethical problems in social research, and some social scientists do this themselves.^[2] The result is that there often appears to be the same need for regulation here as there is in medicine. A sense of proportion is required, but this requires reliance on sensible judgment, which is precisely what is not trusted. The tempting alternative is the appeal to criteria, standards and procedures, since these carry the illusion of offering guarantees, at the very least in terms of identifying who is to blame when things go wrong. The increasing regulation that results, alongside the growing difficulties that social scientists face in gaining access to people and places in order to collect data, threatens the future existence of good quality social research in many fields.

Notes

¹ The quotation within the quotation here is from the Canadian Tri-Council Policy Statement.

²For an early example see Warwick 1982.

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